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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/709,814	05/28/2004	Alan Bauer	27475/07445	3813
24024	7590	02/16/2006	EXAMINER	
CALFEE HALTER & GRISWOLD, LLP 800 SUPERIOR AVENUE SUITE 1400 CLEVELAND, OH 44114			WUJCIAK, ALFRED J	
			ART UNIT	PAPER NUMBER
			3632	

DATE MAILED: 02/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/709,814

Applicant(s)

BAUER, ALAN

Examiner

Alfred Joseph Wujciak III

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-13 and 15-26 is/are rejected.
- 7) ☒ Claim(s) 3 and 14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 May 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5/28/04</u> . | 6) <input type="checkbox"/> Other: _____ |

This is the first Office Action for the serial number 10/709,814, Bathroom Accessory Mounting Assembly and Method of Mounting, filed on 5/28/04.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 8-10, 13, 17-19 and 21-26 are rejected under 35 U.S.C. 102(a) as being anticipated by US Patent Application Publication # 2002/0023993 to Fleischmann et al.

Fleischmann et al. teaches a mounting assembly/accessory comprising a mounting bracket (22) including an axially extending body portion (24, 26 and 32), a fastener (29) for securing the mounting bracket, an accessory post (40) that mounts on the axially extending body portion. The mounting bracket includes a snap flange/means for securing/securing member/securing flange (38) located on the axially extending body portion. Wherein the accessory post includes a recess (58) for receiving a portion of the snap flange. Furthermore, Fleischmann et al. teaches flange that mounts on the axially extending body portion of the mounting bracket. The assembly/accessory includes a functional member (68) connected to the post.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 5-7 and 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fleischmann et al and in view of US Patent # 2,455,606 to Pleiss.

Fleischmann et al. teaches a mounting assembly comprising a mounting bracket (22) including an axially extending body portion (24, 26 and 32), a fastener (29) for securing the mounting bracket, an accessory post (40) that mounts on the axially extending body portion. The mounting bracket includes a snap flange/means for securing (38) located on the axially extending body portion. Wherein the accessory post includes a recess (58) for receiving a portion of the snap flange. Furthermore, Fleischmann et al. teaches flange that mounts on the axially extending body portion of the mounting bracket.

Fleischmann et al. teaches the snap flange but fails to teach the snap flange includes a camming surface and u-shaped cutout in the body portion. Pleiss teaches the snap flange having a camming surface and u-shaped cutout in the body portion. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have added camming surface with u-shaped cutout in the body portion to the Fleischmann et al.'s snap flange as taught by Pleiss to provide improvement in snap flange for releasing and attaching within the recess of the post.

Claims 4, 15 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fleischmann et al., in view of Pleiss and in further view of US Patent # 4,566,662 to Toshishige.

Fleischmann et al. teaches the axially extending body but fails to teach the axially extending body comprises one rib. Toshishige teaches the extending body (15, prior art in figure 2) having rib (16). It would have been obvious for one of ordinary skill in the art at the time the invention was made to have added rib to Fleischmann et al.'s axially extending body as taught by Toshishige to provide a security for the axially extending body to remain connected to the post.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fleischmann et al.

Fleischmann et al. teaches all elements above but fails to teach the use of elements in method. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have specified steps for elements to provide convenience for installing the elements together.

Allowable Subject Matter

Claims 3 and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art fails to teach wherein the mounting bracket further comprises a retaining flange located along a periphery of the body portion for securing the flange to the mounting bracket.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

US Patent # 4,979,713 to Bell

US Patent # 6,817,044 to Ouyoung

US Patent # 6,244,549 to Ching

US Patent # 6,250,597 to Kuo

Bell, Ouyoung, Ching and Kuo teach mounting bracket mounted on wall for supporting an object.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alfred Joseph Wujciak III whose telephone number is (571) 272-6827. The examiner can normally be reached on 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (571) 272-6815. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3632

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Alfred Joseph Wujciak III

Examiner

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A handwritten signature in black ink, appearing to read 'A. J. Wujciak III', with a stylized flourish at the end.

2/13/06